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SEP 09 2002

OFFICE OF PETITIONS

Applicants: LaTorre et al.  
Serial No.: 09/634,773  
Filed: August 9, 2000  
For: Lip-Openable Spill Proof Container  
Examiner: Newhouse, N.  
Art Unit: 3727

Attorney Docket No.: 460.1860USQ

PETITION FOR REVIVAL OF AN APPLICATION ABANDONED UNAVOIDABLY  
UNDER 37 CFR 1.137(a)

Attention: Office of Petitions  
Assistant Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

Dear Sir:

The above-identified application became unavoidably abandoned for failure to file corrected drawings on or before May 13, 2002 (issue fee due date) because the objections to the drawings were not mailed to the Applicants until after that date on June 4, 2002 (the details of which are set forth in the Verified Statement).

The Notice of Abandonment was mailed on August 7, 2002.

Repln. Ref: 03/05/2003 EXHIBIT 0014333900  
DAW:010467 - Name/Number:09634773  
FC: 9204 \$110.00 CR

APPLICANTS HEREBY PETITION FOR REVIVAL OF THIS APPLICATION

Adjustment date: 03/05/2003 CKM/OK  
09/04/2002 AWONDAF1 00000170-09634773  
01 FC:140 -110.00 OP

Small entity - fee \_\_\_\_\_ (37 CFR \$1.17(m))

Small entity statement enclosed herewith.

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01 FC:140

110.00 OP

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\_\_\_\_\_ Small entity statement previously filed.

XXX Other than small entity - fee \$110.00  
(37 C.F.R. §1.17(1))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of letter to Draftsman with corrected Figs. 1 through 39:

\_\_\_\_\_ has been filed previously on  
XXX is enclosed herewith.

B. The issue fee of \$ 1,310.00

XXX has been paid previously on April 12, 2002.  
\_\_\_\_\_ is enclosed herewith.

3. Terminal disclaimer with disclaimer fee:

XXX Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.  
\_\_\_\_\_ is enclosed herewith.

4. Verified statement

The entire delay in filing the corrected drawings from the due date for the drawings until the filing of a grantable petition under 37 C.F.R. 1.137(a) was unavoidable.

Applicants' Attorney received a Notice of Allowance with a mailing date of February 11, 2002. The Notice of Allowance set a deadline for paying the issue fee on or before May 13, 2002. The Examiner noted in the Notice of Allowance that the originally

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filed drawings were acceptable. The Examiner did not indicate in the box marked "CORRECTED DRAWINGS" that corrected or formal drawings were required. Applicants timely paid the issue fee on April 12, 2002.

On June 10, 2002, Applicants' Attorney received a Notice of Draftsperson's Drawing Review with a mailing date of June 4, 2002 (nearly two months after the issue fee had been paid and nearly one month after the issue fee was required to be paid). This Notice, for the first time, required submission of corrected drawings and indicated that the deadline for submission was the statutory period set forth in the Notice of Allowance (May 13, 2002) which had passed almost a month before. Thus, Applicants were unable to meet the already expired deadline for submitting the corrected drawings.

Applicants, through their Attorney, further made inquiry to the Examiner regarding the impossibility of meeting the already expired deadline for submitting corrected drawings and were advised that issuance of the application could be delayed due to the requirement of corrected drawings. Applicants, through their Attorney, promptly arranged for the correction of drawings, which are being filed contemporaneously with this Petition along with a letter to the draftsperson. Applicants' Attorney received a Notice of Abandonment with a mailing date of August 7, 2002, which was the first time the Applicants were put on notice of the abandonment of this application.


The Notice of Abandonment incorrectly asserts that the application is being abandoned due to "Applicant's failure to timely file new formal drawings as required in the Notice of Allowability." As previously pointed out, the Notice of Allowability, a copy of which is enclosed, did not require corrected drawings and the Examiner stated that the drawings were acceptable in the Notice of Allowability.

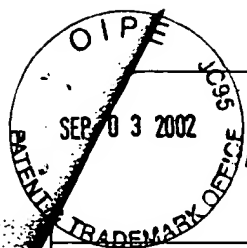
Applicants are promptly responding to the Notice of Abandonment and request that the Application be revived under 37 CFR 1.137(a) because the Application was unavoidably abandoned for the reasons set forth herein.

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

August 27, 2002  
Date

  
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Attorney for Applicants  
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**Notice of Allowability**

Application No.

09/634,773

Examiner

Nathan J. Newhouse

Applicant(s)

LATORRE ET AL.

Art-Unit

3727

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed Jan. 2, 2002.
2. ☒ The allowed claim(s) is/are 6-11, 13, 15-38, 40, 42 and 43.
3. ☒ The drawings filed on 09 August 2000 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the top margin (not the back) of each sheet. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |  |
|--|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892)  | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 4 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____    |
| 5 <input type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____               | 6 <input type="checkbox"/> Examiner's Amendment/Comment                    |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|  | 9 <input type="checkbox"/> Other   |

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*Nathan J. Newhouse*  
Nathan J. Newhouse  
Primary Examiner  
Art Unit: 3727